

throughout the country, regardless of where they live and their income, both with regard to production and pricing as opposed to artificial constraints or boosts that the Federal Government gives.

Certainly, it is a way of bringing things back to where we thought we were in passing the 1996 act given the same troubles the Senator from Idaho has pointed out today. They were exacerbated then.

In addition to this, I presume, in an attempt not to hit the New England Dairy Compact issue head on, the Agriculture Committee, by passing a very generous dairy bill, indicated to many Senators that the additional subsidies and payments to dairymen would be fairly universal around the country.

At least one of the first attempts to do this in the farm bill—and the distinguished Presiding Officer listened to the debate, as well as the distinguished Democratic manager present, the Senator from Georgia—was to up the ante very substantially; one thought being that those who utilized dairy products might put money into a trust fund for the benefit of producers but at the expense of consumers.

It was estimated that this particular scheme might result in a payment of 26 cents per gallon more by all the consumers of milk regardless of income level, regardless of the WIC program, or the school lunch program.

Understandably, as word of this particular redistribution of the wealth got out, cries of outrage occurred. As a matter of fact, the dairy sections were not very compatible. Having warred with each other for all of these years, the thought that somehow the New England compact would be universalized with equity, even if paid for by others—namely, the consumers, ultimately, and 26 cents a gallon—did not set well. So as a result, it was apparent that the farm bill was being rewritten by committee staff.

Most Senators were never the wiser as to what changes the staff made in that particular area, but they were substantial, in part because the initial scoring by the Congressional Budget Office, and others, of the overall product of our Agriculture Committee sent it well beyond the limits that were still very generous in the budget situation. So it would have been subject to a point of order, and a lot of amending and rewriting went on.

That, of course, was not the end of it. I have no idea how many times the dairy section has been subsequently rewritten. I am advised that even this morning before we started this debate, once again, the dairy section was being rewritten. The reason for the delay of our debate this morning was, in fact, legislative counsel was working with the distinguished Democratic staff members on still another dairy amendment to the farm bill to supplant whatever was there, which bore no relationship to what we finally debated in committee.

I think the Senator's amendment is very constructive because neither he nor I have the slightest idea what is now in the farm bill that is before us, and particularly with regard to the dairy situation. We have scrambled, I admit to you, Mr. President, in terms of the amendment that I was about to offer and will offer subsequently to this dairy amendment, to find where, in relationship to the new bill that Senator DASCHLE has offered this morning, our amendment fits.

That is going to be a problem for everybody thinking about amendments today. I think we have rearranged the papers, but there are substantial numbers of new pages. I would estimate, just quickly, there are over 100 pages of new language, some of it pertaining to dairy—a lot of it, as a matter of fact, because that has been the major area of contention and scoring.

Fortunately, the Senator from Idaho, noting this situation, simply says, we just strike the dairy section, whatever its writing or reiteration. Whether it is the fourth or fifth or sixth try at this, we strike it, and we have a study of the situation, which is going to be much more healthy for every American consumer.

Any consumer of milk, listening to this debate, will be relieved that the cost of milk is not going to go up 26 cents a gallon or 5 cents or 10 cents a gallon or what have you. As a matter of fact, there will be a pretty economical milk situation without extraordinary subsidies piled on and redistributed in this way.

The Senator from Idaho has done a favor for every American consumer of milk, a humanitarian service for those who are poor, those who are being assisted in the Women, Infants and Children Program and the school lunch program. He certainly has assisted all of us as Senators to come out of the trenches of this sectional warfare over dairy, which has pitted Senators not only on the Agriculture Committee but on the floor in pitched battles for some time.

I can remember vividly 2 years ago this December when it was very difficult to close down the session of the Congress because the distinguished Senator from Wisconsin, Mr. KOHL, felt that somehow, despite his very best efforts, behind the scenes, somebody, trying to wind up the appropriations process, was, once again, renewing the New England Dairy Compact, which was supposed to be over at that point. The Senator's suspicions were correct. Amazingly, as we left town, the dairy compact was still alive. And Senator KOHL vowed that he would stop this sort of thing. He has tried valiantly to do so on behalf of Wisconsin dairymen and people from the Midwest but without visible success.

I would say to the distinguished Senator from Wisconsin, Mr. KOHL, if he had read the first dairy section coming out of the Agriculture Committee, he would have been even further outraged

by the process. He may have read that and may have contributed, for all I know, to other iterations subsequently. But my hope is we will adopt the amendment offered by the distinguished Senator from Idaho. It is a clean-cut way of getting us back to some reality in the dairy area. Clearly, it will be useful for the Congress at this point—without the encumbrance of all of the layers of dairy programs that we have produced, plus some that we have not ever debated but have been produced somewhere else—to sort of clear the deck. The Senator's amendment does that magnificently and cleanly.

So I am hopeful that as we approach the time for final consideration of this amendment and a rollcall vote on the amendment, Senators will be found to have voted in the affirmative for it. I certainly will be. I commend the Senator for crafting this amendment.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. EDWARDS. Mr. President, I ask unanimous consent that I be allowed to speak as in morning business for up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### WE MUST LIVE BY OUR PRINCIPLES

Mr. EDWARDS. Mr. President, today we are commemorating the anniversary of a despicable act against our country and against our people. We all pay tribute to those who died on September 11. At the same time, we salute those defending freedom today at home and halfway across the globe.

War brings out the best in America. The soldiers who stormed Omaha Beach are still our heroes. The firefighters who marched into the World Trade Center will be our grandchildren's heroes.

But the heat of battle and the crush of necessity can also bring out America's worst, especially here at home. And that is the risk I want to talk about today.

During World War II, one of our greatest Presidents authorized the internment of more than 100,000 innocent people, mostly United States citizens, simply on account of their ancestry.

Today, we are ashamed of that episode. And we are resolved that our actions should make our grandchildren proud, not ashamed.

President Bush himself has expressed that resolve. In his speech to the Congress on September 20, he said something that was very important. He said:

We are in a fight for our principles, and our first responsibility is to live by them.

That is exactly right. One of our principles is vigorous debate. I was saddened when the Attorney General of the United States last week said that unidentified critics "aid terrorists" and "give ammunition to America's enemies." Mr. Ashcroft did not offer any

evidence that terrorists benefit when Americans speak their mind.

In our American tradition, it is the responsibility of leaders to promote the free exchange of ideas, not stifle them. That responsibility carries over from peacetime to wartime. We don't encourage different ideas because we owe it to critics. We encourage different ideas because we owe it to ourselves. Robust debate has made America stronger for more than 200 years.

It is only because of open debate that we have a legal right to speak our minds at all. The way the Constitution was initially drafted back in 1787, there was no guarantee for free speech. There was no protection for religious freedom, for privacy, for individual liberty, for so many rights all Americans now take for granted. The original Constitution contained no Bill of Rights.

Without a Bill of Rights, many veterans of the American Revolution furiously opposed the original Constitution. My State of North Carolina flatly rejected it. The first Congress approved the Bill of Rights only after those patriots spoke their minds, spoke up and demanded it. Today, we are all grateful for their speaking their minds, for their patriotism that has meant so much to many Americans who followed.

A few years later, in the late 1790s, our Nation was on the brink of war. The French Government was torturing American soldiers and seizing American ships. At that point, an enraged Congress passed a seditious act criminalizing "scandalous" writing "against the Government." Chief among the opponents of that legislation was Vice President Thomas Jefferson. As he put it, the country's critics should be allowed to "stand undisturbed as monuments of the safety with which error of opinion may be tolerated where reason is left free to combat it."

Closer to today, President Richard Nixon moved to expand the Subversive Activities Control Board's oversight of political protests during the Vietnam war. Sam Ervin, whose seat in the Senate I now hold, supported that war. But he challenged President Nixon's proposal. What he said on the floor echoed Jefferson:

Our country has nothing to fear from the exercise of its freedoms as long as it leaves truth free to combat error.

I believe that is still true today. Like the vast majority of Americans, I strongly support America's war on terrorism overseas. Unlike some, I also support much of the administration's law enforcement effort here at home. We live in a new world after September 11. We simply must take steps that we would not have accepted 3 months ago.

I also believe that vigorously discussing each of those steps strengthens our war effort. Thanks to the courage and skill of our soldiers, we will win this war against al-Qaida. But there is a totally different question whether we will win the war for the minds and hearts of those around the world.

I believe we will do that if we hold true to our values—values such as justice, fairness, and the rule of law. Those are the values that make America the beacon of freedom for the rest of the world. And nothing reminds us of our values like open discussion.

The debate over military tribunals is a perfect example. The order of November 30 that authorized tribunals came with very little explanation. Many Americans, including many past Federal prosecutors, asked why our ordinary criminal justice system was not adequate. The administration responded with a much more detailed explanation for their action. That explanation built broad support for the use of tribunals in very narrow circumstances. In fact, I support the use of military tribunals under the right circumstances.

But even since that exchange, serious questions remained about the gap between the specific terms of the order and basic norms of fairness that Americans share and believe in deeply.

In answer to some of the questions last Thursday, Attorney General Ashcroft was able to clarify that many things apparently allowed on the face of the order will not happen. For example, secret trials, indefinite detentions, executive reversal of acquittals by the military tribunals.

Mr. Ashcroft could not rule out other disturbing possibilities. Could a lawful resident in this country be convicted and sentenced to death by a tribunal on a 2-to-1 vote? Could it happen under a burden of proof requiring only a 51-percent likelihood of guilt; that is, a lawful resident of this country being convicted and receiving the death penalty on 51 percent of the evidence? And could it happen without an independent review to see whether there was evidence that should have been admitted that was not admitted, evidence that would have shown that this particular defendant did not commit the crime?

Members of Congress and members of the general public have much more than a right to raise those questions. We have a responsibility to raise those questions.

The give and take over military tribunals hardly helps terrorists. I believe that it undercuts America's enemies, for open exchange ensures that our actions reflect our commitments. It signals that a great nation fears nothing from peaceful debate. We should welcome that debate. It is a proud, necessary tradition, both in peace and in war.

I yield the floor.

The PRESIDING OFFICER. What is the will of the Senate?

Mr. LUGAR. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

# RECESS

Mr. REID. Mr. President, there is presently in effect an order that we would go into recess for the party conferences at 12:30. I ask unanimous consent that we expedite that by 3 minutes and start the recess for our conferences now.

There being no objection, the Senate, at 12:27 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. MILLER).

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## AGRICULTURE, CONSERVATION, AND RURAL ENHANCEMENT ACT OF 2001—Continued

Mr. BINGAMAN. Mr. President, I start by thanking Senator HARKIN for his hard work on this farm bill. I know he has a difficult task pulling people together to craft a bill. As chairman of the committee, he and his staff need to be complimented for the fine work they have done on the bill. It is important legislation for farmers in New Mexico, and I hope the Senate can move ahead to complete action on the farm bill.

The bill has several provisions important to my State. I thank the chairman for working with me on those. I also thank Senator HARKIN for the strong efforts he has made to improve the conservation programs in the bill which are particularly important to my State.

However, all that being true, I wish to express a serious concern about the dairy provisions in the bill. As I understand it, the substitute bill creates a totally new dairy program. I believe the new dairy scheme in the bill is wrong for the Nation's dairy farmers and wrong for consumers as well. That is why I support Senator CRAPO's amendment to strike this provision and to instead have a study to determine which, if any, of the proposals that are currently floating in the Senate ought to be considered in the future.

I do appreciate the effort that Senator HARKIN and Senator DASCHLE and others, as well as our staffs, have made to come up with a balanced dairy policy. The latest version I have seen is a dramatic improvement over previous versions, and I appreciate that.

My State of New Mexico is the 10th largest dairy producing State and one of the fastest growing dairy producing